

## THIRD DIVISION

[ G.R. NO. 174114, July 06, 2007 ]

### **DMG INDUSTRIES, INC., PETITIONER, VS. THE PHILIPPINE AMERICAN INVESTMENTS CORPORATION, RESPONDENT.**

#### **RESOLUTION**

##### **NACHURA, J.:**

In a Resolution dated October 18, 2006, this Court denied the petition for review on *certiorari* filed by petitioner DMG Industries, Inc. (DMG) of the Decision dated February 28, 2006 and the Resolution dated August 9, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 69941 for failure to show that the CA committed any reversible error as to warrant the exercise of its discretionary appellate jurisdiction and for raising factual issues improper for a petition for review.

Subsequently, petitioner filed a Motion for Reconsideration of the Resolution dated October 18, 2006. Pending the resolution of the motion for reconsideration, petitioner DMG and respondent The Philippine American Investments Corporation (PAIC) entered, on February 14, 2007, into a compromise settlement agreement. However, on February 26, 2007, we denied with finality the motion for reconsideration.

Before us is the Urgent Joint Motion for Approval of Compromise Settlement Agreement<sup>[1]</sup> dated February 14, 2007 filed by both parties on March 1, 2007. The Compromise Settlement Agreement reads:

#### **COMPROMISE SETTLEMENT AGREEMENT**

The parties hereto, thru their undersigned respective counsels and with the Plaintiff-Respondent **PHILIPPINE AMERICAN INVESTMENTS CORP.** (hereinafter referred to as "**PAIC**" for brevity) represented herein by its Liquidator, Mr. Alberto V. Reyes and the Defendant-Petitioner **DMG INDUSTRIES, INC.** (hereinafter referred to as "**DMG**" for brevity) represented herein by its Chairman, Mr. Jose S. Sandejas, to this Honorable Court most respectfully and jointly submit for consideration and approval, the following Compromise Settlement Agreement:

1.1. Whereas, the dispositive portion of the Decision of the Regional Trial Court in the above-entitled case dated 11 October 2000, reads as follows:

*"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff or against the defendant. Accordingly, the defendant is ordered to pay plaintiff:*

1. *the sum of P516,797.63 with interest and penalty charges thereon computed in accordance with the parties' Memorandum of Agreement (Exh. A) and the defendant's promissory note (Exh. B) from April 1, 1982 until the principal amount shall have been fully paid;*
2. *a sum equivalent to 25% of the amount in item no. (1) by way of attorney's fees;*
3. *the cost of this suit;*

*SO ORDERED*

*Makati City, 11 October 2000."*

1.2. Whereas, the Decision of the Court of Appeals dated 28 February 2006 in the same case, affirmed this RTC Decision *in toto* as follows:

*"WHEREFORE, the appealed decision of the Regional Trial Court of Makati City (Branch 62) is AFFIRMED in toto."*

1.3. Whereas, the Honorable Supreme Court in turn likewise affirmed the Decision of the Court of Appeals in its Resolution dated 18 October 2006, when the Honorable Court denied the Defendant's Petition for Review on Certiorari as follows:

*"G.R. No. 174114 (DMG Industries, Inc. vs. The Philippine American Investment Corporation) i½ Considering the allegations, issues, and arguments adduced in the petition for review on certiorari of the decision and resolution dated February 28, 2006 and August 9, 2006, respectively, of the Court of Appeals in CA-G.R. CV No. 69941, the Court resolves to DENY the petition for failure of the petitioner to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision and resolution as to warrant the exercise of this Court's discretionary appellate jurisdiction. Besides, the issues raised are factual."*

1.4. Whereas, the aforementioned Resolution is the subject of a pending Motion for Reconsideration filed by Defendant-Petitioner DMG;

1.5. Whereas, at this point of time, Defendant-Petitioner DMG has offered to amicably settle the above-entitled case for the amount of Two Million Pesos (P2,000,000.00) primarily invoking humanitarian considerations, since the bulk of the monetary award in the aforementioned Decision of the Regional Trial Court *a quo* consists merely of penalties and corresponding attorney's fees which were substantially increased because of the prolonged litigation period; thereby in effect imposing on Defendant-Petitioner a "penalty" of sort; just for exercising its right to litigate a legally contestable issue, a penalty which is frowned upon by courts of equity as well as by civil society.

1.6. Whereas, considering that the Liquidator of Plaintiff-Respondent